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TAGS: [PGOV](#) [KJUS](#) [PREL](#) [AF](#)
SUBJECT: PRT/LASHKAR GAH - JUDICIAL REFORM
CONFERENCE: SOME LIGHT BUT A LONG WAY TO GO

KABUL 00001325 001.2 OF 003

1. (SBU) SUMMARY: A judicial conference sponsored by the PRT on March 20 revealed that lack of education and corruption are major impediments to improving Helmand's judicial system. Participating judges agreed that those engaged in poppy cultivation should be punished. They also lamented the lack of alternative development available to poppy farmers in the province. END SUMMARY.

2. (SBU) The PRT's civil affairs unit organized its first judicial conference on March 20. Captain Allan Dollison, a reserve officer who is a practicing public defender in civilian life, organized and led the conference. Seven Helmand judges attended, including 72-year-old Chief Judge Afghani. The four-hour conference included topics such as the judicial structure in Helmand, the civilian and criminal case management process, and traditional justice vs. formal justice.

LIMITED USE OF FORMAL JUSTICE

3. (SBU) The formal justice system still remains on the periphery of how Afghans settle dispute. The judges estimated that up to 90 percent of cases are decided in the "informal" sector, including district and village shuras (councils). However, there are still situations where the gun rules, especially in land disputes between different tribes, according to

the judges. Only about half of Helmand's 13 districts have residing judges and prosecutors.

EDUCATION IS A KEY

¶4. (SBU) During the discussion, the judges said that one of the key factors working against the formal system is the high rate of illiteracy among the general population. With the lack of education, citizens are reluctant to get into a process requiring documents and reports. Also, they argued, the government needs to do more outreach to demonstrate to the public how to use the formal legal system. The judges said that if the citizenry can be shown how to use the legal system, the potential for violence will be reduced. The judges conclude that there should be a "partnership" between the education and judiciary ministries.

WHAT'S BEST FOR AFGHANISTAN?

¶5. (SBU) Discussing the type of system that might work best for Afghanistan, Captain Dollison said that there really is no "best" system; rather the Afghans should look at other systems and see how they can borrow elements that could fit within a framework that is appropriate for Afghanistan. He noted that the U.S. system borrowed heavily from the Greeks, Romans, French, British, and others. Captain Dollison suggested that whatever path Afghanistan chooses, it should be through the

KABUL 00001325 002.2 OF 003

democratic process. Furthermore, there is no reason why the informal and formal justice systems cannot coexist.

¶6. (SBU) During the discussion, the judges admitted that corruption is one of the most pressing problems in the judicial system. The judges noted that with the selection of Governor Daud there is a good chance that government will become more honest. They pointed out specifically that within the criminal justice system, bribery is a major problem with the police, who are paid off to avoid bringing cases to the prosecutors. (Note: This is true among prosecutors and judges as well. End note.)

JUSTICE AND COUNTERNARCOTICS

¶7. (SBU) The judges engaged in a lively discussion about poppy and eradication. They agreed that growing poppy was illegal. They also said that anyone brought to their courts accused of being involved with poppy cultivation and/or narcotics trafficking should be punished. They criticized the Coalition for not providing sufficient alternative livelihood programs to farmers. Chief Judge Afghani noted that a key to poppy elimination is developing not only alternative crops, but also some manufacturing base. He added that people grow poppy to support their basic needs because up to now, "the government has failed them." The Taliban have been gone for over four years and basic needs such as clean water and electricity are still in short supply.

¶8. (SBU) One primary court judge, Abdul Rahmin Muslim, opined that if there were a more extensive free seed distribution and if farmers could generate

even half as much income as from poppy, they would grow wheat rather than poppy, which is clearly illegal and violates Islamic law. The director of court security suggested that if all the money being spent on eradication were used for assistance to develop alternative incomes, farmers could cease poppy cultivation.

COMMENT

19. While this civil affairs' judicial conference was a step in the right direction, the formal legal system in Helmand remains undeveloped. Most prosecutors and judges are untrained and corruption permeates the system, as it does most aspects of the public sector. Thus it is not surprising that citizens turn to the informal justice system or take justice into their own hands. Judicial reform in Helmand is a major challenge that will take much time and human and capital investment. With the upcoming UK transition to include a significant ramping up of its civilian component to address security sector and judicial reform, hopefully progress will be forthcoming.

KABUL 00001325 003.2 OF 003

NORLAND